

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1379

Citations Affected: IC 5-14-3-8; IC 16-22-8-34; IC 16-37-1-9; IC 36-2-7.

Synopsis: Copying and certification of documents. Conference committee report for EHB 1379. Increases the fee (from five to seven cents) that the county recorder can charge a bulk user for bulk form copies. Specifies that money in the records perpetuation fund may not be deposited in the county general fund and does not revert to the county general fund at the end of a fiscal year. Provides that a local government agency may charge a fee of not more than \$5 for certifying a document instead of the actual cost to the agency (specifically excludes the copying and certification charges of a health and hospital corporation and a local department of health's charges for certificates of birth, death, or stillbirth registration. Provides that a local government agency may charge a fee for copying a document that does not exceed the greater of: (1) 10 cents per page (for noncolor copies) or 25 cents per page (for color copies); or (2) the actual cost to the agency (specifically excludes the charges of a health and hospital corporation and a local department of health's charges for certificates of birth, death, and stillbirth registration. Removes the definition of "actual cost" in the current law allowing local agencies to charge the "actual cost" of copying, certifying, or facsimile transmission of a document. Removes a provision in the current law that allows a local agency to charge the actual cost of facsimile transmission of a document. Makes a technical change to resolve a conflict with SEA 526-2007 (the recodification bill). **(This conference committee report: (1) Increases the cost of bulk form copies from five to seven cents (instead of five to six cents). (2) Deletes a provision concerning setting a fee for facsimile of a document. (3) Allows a local agency to charge a fee of not more than \$5 for certifying a document, instead of the actual cost to the agency. (4) Allows a local agency to charge a fee for copying a document that is the greater of ten cents per page (for noncolor copies) or 25 cents per page (for color copies) or the actual cost (current law allows an agency to charge the actual cost of making copies). (5) Specifies that a health and hospital corporation or a local health department is not subject to the provisions under the public records law governing copying and certification costs for certificates of birth, death, or stillbirth registration. (6) Makes a technical change to resolve a conflict with SEA 526-2007 (the recodification bill).**

Effective: July 1, 2007.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1379 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 5-14-3-8 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) For the purposes of this
- 4 section, "state agency" has the meaning set forth in IC 4-13-1-1.
- 5 (b) Except as provided in this section, a public agency may not
- 6 charge any fee under this chapter:
- 7 (1) to inspect a public record; or
- 8 (2) to search for, examine, or review a record to determine
- 9 whether the record may be disclosed.
- 10 (c) The Indiana department of administration shall establish a
- 11 uniform copying fee for the copying of one (1) page of a standard-sized
- 12 document by state agencies. The fee may not exceed the average cost
- 13 of copying records by state agencies or ten cents (\$0.10) per page,
- 14 whichever is greater. A state agency may not collect more than the
- 15 uniform copying fee for providing a copy of a public record. However,
- 16 a state agency shall establish and collect a reasonable fee for copying
- 17 nonstandard-sized documents.
- 18 (d) This subsection applies to a public agency that is not a state
- 19 agency. The fiscal body (as defined in IC 36-1-2-6) of the public
- 20 agency, or the governing body, if there is no fiscal body, shall establish
- 21 a fee schedule for the certification ~~or copying or facsimile machine~~
- 22 ~~transmission~~ of documents. The fee **for certification of documents**

may not exceed five dollars (\$5) per document. The fee for copying documents may not exceed the actual cost of certifying, copying, or facsimile transmission of the document by the agency and the fee must be uniform throughout the public agency and uniform to all purchasers. As used in this subsection, "actual cost" means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs: the greater of:

- (1) ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or
- (2) the actual cost to the agency of copying the document.

A fee established under this subsection must be uniform throughout the public agency and uniform to all purchasers.

(e) If:

- (1) a person is entitled to a copy of a public record under this chapter; and
- (2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the public record;

the public agency must provide at least one (1) copy of the public record to the person. However, if a public agency does not have reasonable access to a machine capable of reproducing the record or if the person cannot reproduce the record by use of enhanced access under section 3.5 of this chapter, the person is only entitled to inspect and manually transcribe the record. A public agency may require that the payment for copying costs be made in advance.

(f) Notwithstanding subsection (b), (c), (d), (g), (h), or (i), a public agency shall collect any certification, copying, facsimile machine transmission, or search fee that is specified by statute or is ordered by a court.

(g) Except as provided by subsection (h), for providing a duplicate of a computer tape, computer disc, microfilm, or similar or analogous record system containing information owned by the public agency or entrusted to it, a public agency may charge a fee, uniform to all purchasers, that does not exceed the sum of the following:

- (1) The agency's direct cost of supplying the information in that form.
- (2) The standard cost for selling the same information to the public in the form of a publication if the agency has published the information and made the publication available for sale.
- (3) In the case of the legislative services agency, a reasonable percentage of the agency's direct cost of maintaining the system in which the information is stored. However, the amount charged by the legislative services agency under this subdivision may not exceed the sum of the amounts it may charge under subdivisions (1) and (2).

(h) This subsection applies to the fee charged by a public agency for providing enhanced access to a public record. A public agency may charge any reasonable fee agreed on in the contract under section 3.5 of this chapter for providing enhanced access to public records.

(i) This subsection applies to the fee charged by a public agency for

1 permitting a governmental entity to inspect public records by means of
 2 an electronic device. A public agency may charge any reasonable fee
 3 for the inspection of public records under this subsection, or the public
 4 agency may waive any fee for the inspection.

5 (j) Except as provided in subsection (k), a public agency may charge
 6 a fee, uniform to all purchasers, for providing an electronic map that is
 7 based upon a reasonable percentage of the agency's direct cost of
 8 maintaining, upgrading, and enhancing the electronic map and for the
 9 direct cost of supplying the electronic map in the form requested by the
 10 purchaser. If the public agency is within a political subdivision having
 11 a fiscal body, the fee is subject to the approval of the fiscal body of the
 12 political subdivision.

13 (k) The fee charged by a public agency under subsection (j) to cover
 14 costs for maintaining, upgrading, and enhancing an electronic map may
 15 be waived by the public agency if the electronic map for which the fee
 16 is charged will be used for a noncommercial purpose, including the
 17 following:

- 18 (1) Public agency program support.
- 19 (2) Nonprofit activities.
- 20 (3) Journalism.
- 21 (4) Academic research.

22 SECTION 2. IC 16-22-8-34, AS AMENDED BY P.L.88-2006,
 23 SECTION 5, AND AS AMENDED BY P.L.145-2006, SECTION 133,
 24 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2007]: Sec. 34. (a) The board or corporation
 26 may do all acts necessary or reasonably incident to carrying out the
 27 purposes of this chapter, including the following:

- 28 (1) As a municipal corporation, sue and be sued in any court with
 29 jurisdiction.
- 30 (2) To serve as the exclusive local board of health and local
 31 department of health within the county with the powers and duties
 32 conferred by law upon local boards of health and local
 33 departments of health.
- 34 (3) To adopt and enforce ordinances consistent with Indiana law
 35 and administrative rules for the following purposes:
 - 36 (A) To protect property owned or managed by the corporation.
 - 37 (B) To determine, prevent, and abate public health nuisances.
 - 38 (C) To establish quarantine regulations, impose restrictions on
 39 persons having infectious or contagious diseases and contacts
 40 of the persons, and regulate the disinfection of premises.
 - 41 (D) To license, regulate, and establish minimum sanitary
 42 standards for the operation of a business handling, producing,
 43 processing, preparing, manufacturing, packing, storing,
 44 selling, distributing, or transporting articles used for food,
 45 drink, confectionery, or condiment in the interest of the public
 46 health.
 - 47 (E) To control:
 - 48 (i) rodents, mosquitos, and other animals, including insects,
 49 capable of transmitting microorganisms and disease to
 50 humans and other animals; and
 - 51 (ii) the ~~animal's~~ **animals'** breeding places.

- 1 (F) To require persons to connect to available sewer systems
- 2 and to regulate the disposal of domestic or sanitary sewage by
- 3 private methods. However, the board and corporation have no
- 4 jurisdiction over publicly owned or financed sewer systems or
- 5 sanitation and disposal plants.
- 6 (G) To control rabies.
- 7 (H) For the sanitary regulation of water supplies for domestic
- 8 use.
- 9 (I) To protect, promote, or improve public health. For public
- 10 health activities and to enforce public health laws, the state
- 11 health data center described in IC 16-19-10 shall provide
- 12 health data, medical information, and epidemiological
- 13 information to the corporation.
- 14 (J) To detect, report, prevent, and control disease affecting
- 15 public health.
- 16 (K) To investigate and diagnose health problems and health
- 17 hazards.
- 18 (L) To regulate the sanitary and structural conditions of
- 19 residential and nonresidential buildings and unsafe premises.
- 20 (M) To license and regulate the design, construction, and
- 21 operation of public pools, spas, and beaches.
- 22 (N) To regulate the storage, containment, handling, use, and
- 23 disposal of hazardous materials.
- 24 (O) To license and regulate tattoo parlors and body piercing
- 25 facilities.
- 26 (4) To manage the corporation's hospitals, medical facilities, and
- 27 mental health facilities.
- 28 (5) To furnish health and nursing services to elementary and
- 29 secondary schools within the county.
- 30 (6) To furnish medical care to the indigent within the county
- 31 unless medical care is furnished to the indigent by the division of
- 32 family ~~and children~~ resources.
- 33 (7) To determine the public health policies and programs to be
- 34 carried out and administered by the corporation.
- 35 (8) To adopt an annual budget ordinance and levy taxes.
- 36 (9) To incur indebtedness in the name of the corporation.
- 37 (10) To organize the personnel and functions of the corporation
- 38 into divisions and subdivisions to carry out the corporation's
- 39 powers and duties and to consolidate, divide, or abolish the
- 40 divisions and subdivisions.
- 41 (11) To acquire and dispose of property.
- 42 (12) To receive *charitable contributions* and ~~make~~ gifts as
- 43 *provided in 26 U.S.C. 170.*
- 44 *(13) To make charitable contributions and gifts.*
- 45 *(14) To establish a charitable foundation as provided in 26*
- 46 *U.S.C. 501.*
- 47 ~~(13)~~ (15) To receive and distribute federal, state, local, or private
- 48 grants.
- 49 *(16) To receive and distribute grants from charitable foundations.*
- 50 *(17) To establish nonprofit corporations to carry out the purposes*
- 51 *of the corporation.*

~~(14)~~ (18) To erect buildings or structures or improvements to existing buildings or structures.

~~(15)~~ (19) To determine matters of policy regarding internal organization and operating procedures.

~~(16)~~ (20) To do the following:

(A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.

(B) Collect the charges from the patient or from the governmental unit where the patient resided at the time of the service.

(C) Require security for the payment of the charges.

~~(17)~~ (21) To adopt a schedule of and to collect reasonable charges for patients able to pay in full or in part.

~~(18)~~ (22) To enforce Indiana laws, administrative rules, and the code of the health and hospital corporation of the county.

~~(19)~~ (23) To purchase supplies, materials, and equipment for the corporation.

~~(20)~~ (24) To employ personnel and establish personnel policies to carry out the duties, functions, and powers of the corporation.

~~(21)~~ (25) To employ attorneys admitted to practice law in Indiana.

~~(22)~~ (26) To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.

~~(23)~~ (27) To dispose of surplus property in accordance with a policy by the board.

~~(24)~~ (28) To determine the duties of officers and division directors.

~~(25)~~ (29) To fix the compensation of the officers and division directors.

~~(26)~~ (30) To carry out the purposes and object of the corporation.

~~(27)~~ (31) To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

~~(28)~~ (32) To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees.

IC 5-14-3-8(d) does not apply to fees established under this subdivision for certificates of birth, death, or stillbirth registration.

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

SECTION 3. IC 16-37-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A local health department may make a charge under IC 16-20-1-27 for each certificate of birth, death, or stillbirth registration. **IC 5-14-3-8(d) does not apply to the health department making a charge for a certificate of birth, death, or stillbirth registration under IC 16-20-1-27.**

(b) If the local department of health makes a charge for a certificate of death under subsection (a), a one dollar (\$1) coroners continuing education fee must be added to the rate established under IC 16-20-1-27. The local department of health shall deposit any

1 coroners continuing education fees with the county auditor within thirty
 2 (30) days after collection. The county auditor shall transfer
 3 semiannually any coroners continuing education fees to the treasurer
 4 of state.

5 (c) Notwithstanding IC 16-20-1-27, a charge may not be made for
 6 furnishing a certificate of birth, death, or stillbirth registration to a
 7 person or to a member of the family of a person who needs the
 8 certificate for one (1) of the following purposes:

9 (1) To establish the person's age or the dependency of a member
 10 of the person's family in connection with:

11 (A) the person's service in the armed forces of the United
 12 States; or

13 (B) a death pension or disability pension of a person who is
 14 serving or has served in the armed forces of the United States.

15 (2) To establish or to verify the age of a child in school who
 16 desires to secure a work permit.

17 SECTION 4. IC 36-2-7-10, AS AMENDED BY SEA 526-2007,
 18 SECTION 384, IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) The county recorder shall
 20 tax and collect the fees prescribed by this section for recording, filing,
 21 copying, and other services the recorder renders, and shall pay them
 22 into the county treasury at the end of each calendar month. The fees
 23 prescribed and collected under this section supersede all other
 24 recording fees required by law to be charged for services rendered by
 25 the county recorder.

26 (b) The county recorder shall charge the following:

27 (1) Six dollars (\$6) for the first page and two dollars (\$2) for each
 28 additional page of any document the recorder records if the pages
 29 are not larger than eight and one-half (8 1/2) inches by fourteen
 30 (14) inches.

31 (2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for
 32 each additional page of any document the recorder records, if the
 33 pages are larger than eight and one-half (8 1/2) inches by fourteen
 34 (14) inches.

35 (3) For attesting to the release, partial release, or assignment of
 36 any mortgage, judgment, lien, or oil and gas lease contained on a
 37 multiple transaction document, the fee for each transaction after
 38 the first is the amount provided in subdivision (1) plus the amount
 39 provided in subdivision (4) and one dollar (\$1) for marginal
 40 mortgage assignments or marginal mortgage releases.

41 (4) One dollar (\$1) for each cross-reference of a recorded
 42 document.

43 (5) One dollar (\$1) per page not larger than eight and one-half (8
 44 1/2) inches by fourteen (14) inches for furnishing copies of
 45 records and two dollars (\$2) per page that is larger than eight and
 46 one-half (8 1/2) inches by fourteen (14) inches.

47 (6) Five dollars (\$5) for acknowledging or certifying to a
 48 document.

49 (7) Five dollars (\$5) for each deed the recorder records, in
 50 addition to other fees for deeds, for the county surveyor's corner
 51 perpetuation fund for use as provided in IC 21-47-3-3 or

- 1 IC 36-2-12-11(e).
- 2 (8) A fee in an amount authorized under IC 5-14-3-8 for
- 3 transmitting a copy of a document by facsimile machine.
- 4 (9) A fee in an amount authorized by an ordinance adopted by the
- 5 county legislative body for duplicating a computer tape, a
- 6 computer disk, an optical disk, microfilm, or similar media. This
- 7 fee may not cover making a handwritten copy or a photocopy or
- 8 using xerography or a duplicating machine.
- 9 (10) A supplemental fee of three dollars (\$3) for recording a
- 10 document that is paid at the time of recording. The fee under this
- 11 subdivision is in addition to other fees provided by law for
- 12 recording a document.
- 13 (11) Three dollars (\$3) for each mortgage on real estate recorded,
- 14 in addition to other fees required by this section, distributed as
- 15 follows:
- 16 (A) Fifty cents (\$0.50) is to be deposited in the recorder's
- 17 record perpetuation fund.
- 18 (B) Two dollars and fifty cents (\$2.50) is to be distributed to
- 19 the auditor of state on or before June 20 and December 20 of
- 20 each year as provided in IC 24-9-9-3.
- 21 (c) The county recorder shall charge a two dollar (\$2) county
- 22 identification security protection fee for recording or filing a document.
- 23 This fee shall be deposited under IC 36-2-7.5-6.
- 24 (d) The county treasurer shall establish a recorder's records
- 25 perpetuation fund. All revenue received under **section 10.1 of this**
- 26 **chapter and** subsection (b)(5), (b)(8), (b)(9), and (b)(10), and fifty
- 27 cents (\$0.50) from revenue received under subsection (b)(11), shall be
- 28 deposited in this fund. The county recorder may use any money in this
- 29 fund without appropriation for the preservation of records and the
- 30 improvement of record keeping systems and equipment. **Money from**
- 31 **the fund may not be deposited or transferred into the county**
- 32 **general fund and does not revert to the county general fund at the**
- 33 **end of a fiscal year.**
- 34 (e) As used in this section, "record" or "recording" includes the
- 35 functions of recording, filing, and filing for record.
- 36 (f) The county recorder shall post the fees set forth in subsection (b)
- 37 in a prominent place within the county recorder's office where the fee
- 38 schedule will be readily accessible to the public.
- 39 (g) The county recorder may not tax or collect any fee for:
- 40 (1) recording an official bond of a public officer, a deputy, an
- 41 appointee, or an employee; or
- 42 (2) performing any service under any of the following:
- 43 (A) IC 6-1.1-22-2(c).
- 44 (B) IC 8-23-7.
- 45 (C) IC 8-23-23.
- 46 (D) IC 10-17-2-3.
- 47 (E) IC 10-17-3-2.
- 48 (F) IC 12-14-13.
- 49 (G) IC 12-14-16.
- 50 (h) The state and its agencies and instrumentalities are required to
- 51 pay the recording fees and charges that this section prescribes.

SECTION 5. IC 36-2-7-10.1, AS AMENDED BY SEA 412-2007,
SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2007]: Sec. 10.1. (a) As used in this section, "bulk form"
means:

- (1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;
- (2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or
- (3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies. However, "bulk user" does not include an individual, a corporation, a partnership, a limited liability company, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

- (1) duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or
- (2) reproducing on microfilm.

(d) As used in this section, "indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) As used in this section, "recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder.

(f) The county recorder shall collect the fees prescribed by this section for the sale of recorded documents in bulk form copies to bulk users of public records. The county recorder shall pay the fees into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:

- (1) **Five Seven cents (\$0.05) (\$0.07)** per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.
- (2) **Five Seven cents (\$0.05) (\$0.07)** per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent (\$0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains

the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

(j) Bulk form copies under this section may be used:

- (1) in the ordinary course of the business of the bulk user; and
- (2) by customers of the bulk user.

(k) The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold.

~~(k)~~ **(l)** All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with section 10(d) of this chapter.

~~(l)~~ **(m)** This section does not apply to enhanced access under IC 5-14-3-3.

(Reference is to EHB 1379 as reprinted April 4, 2007.)

Conference Committee Report
on
Engrossed House Bill 1379

Signed by:

Representative Hoy
Chairperson

Senator Lawson C

Representative Friend

Senator Deig

House Conferees

Senate Conferees